

C.) REMARKS

This Response is filed in response to the Office Action dated January 19, 2007.

Upon entry of this Response, claims 1-20 will be pending in the Application.

In the outstanding Office Action, the Examiner withdrew from consideration claims 21-29; requested copies of two previously provided foreign references identified in the Information Disclosure Statement filed March 22, 2004; rejected claims 1-20 under 35 U.S.C. 112, second paragraph, as being indefinite; rejected claims 1-4 and 7-11 under 35 U.S.C. 102(b) as being anticipated by Hutton et al. (U.S. Patent No. 4,650,947) hereinafter "Hutton"; rejected claims 5, 6, 12, 13 and 15-17 under 35 U.S.C. § 103(a) as being unpatentable over Hutton; indicated claims 14 and 18 would be allowable if rewritten in independent form.

Rejection under 35 U.S.C. 102

The Examiner rejected claims 1-4 and 7-11 under 35 U.S.C. 102(b) as being anticipated by Hutton.

Specifically, the Examiner stated that

Hutton et al. (4,650,947). Hutton et al. disclose the claimed press structure including an upper platen and a heated lower platen (column 3, lines 27-37) that are selectively movable toward and away from each other for conformally but nondeformingly receiving a vessel or bow therebetween so that vessel surfaces in conformal contact with the platens remain substantially undeformed while the vessel is filled with pressurized material (column 9, lines 7-12), and wherein a portion of the vessel or bow is heated to at least a predetermined temperature by the heated lower platen.

The vessel or bow of Hutton et al. is a roof assembly, as in claim 2, has non-parallel portions, as in claim 3, and is angled, as in claim 4. The lower platen is heated by heating elements, as in claim 7. The pressurized material is a foam material (column 2, line 50), as in claim 8. It is submitted that the expansion, bonding promotion, and injected material temperature of claims 9-11 are inherently achieved during the operation of the press of Hutton et al. in the manner disclosed by Hutton et al.

Applicant respectfully traverse the rejection of claims 1-4 and 7-11 under 35 U.S.C. 102(b).

Hutton as understood, is directed to an induction tacking apparatus for tacking a ribbon of expandable resin containing a heat activated blowing agent to a metal body. Sufficient heat is applied by induction to a portion of the body to transfer sufficient heat to a corresponding portion of the ribbon to bond the ribbon to the body without heating the bulk of the ribbon to activate the blowing agent. Avoiding activation of the blowing agent prevents the blowing agent from expanding the bulk of the ribbon into a foam resin.

In contrast, independent claim 1 recites a press comprising: an upper platen and a heated lower platen that are selectably movable toward and away from each other for conformally but nondeformingly receiving a vessel therebetween so that vessel surfaces in conformal contact with the upper platen and the lower platen remain substantially undeformed while the vessel is filled with a pressurized material; and wherein the heated lower platen heats a portion of the vessel to at least a predetermined temperature. (emphasis added)

The examiner is reminded that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.’ *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).” *See* Manual of Patent Examining Procedure, 8th Edition (MPEP), Section 2131.

In addition, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.’ *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).” *See* MPEP, Section 2131.

Several of the features recited by Applicant in independent claim 1 are not taught or suggested by Hutton. First, Hutton does not teach or suggest an upper platen and a heated lower platen that are selectably movable toward and away from each other for conformally receiving a vessel therebetween. The trough formed by the bow 14 (see e.g., Figures 7-9) of Hutton cannot be properly characterized as being conformally received in the same manner as the claimed invention. As clearly shown in Hutton in Figures 7-9, which are taken along line 7-7 of Figure 5 and are transverse to Figure 5, and col. 3, lines 19-30, col. 4, lines 10-15 and col. 6, lines 42-50,

the bow is not conformally supported by the supporting fixture. The bow contains three troughs as shown in Figure 7, each having opposed non-parallel legs resembling a V-shape, similar to the corrugations in cardboard paper construction. The bow is then located in cavity 56 of the fixture. The cavity has an upper surface, a lower surface, and a surface defined by potting compound that contact only the bottom surfaces of each trough. The remaining surfaces of each trough are not supported by the supporting fixture in Hutton. In contrast, as provided in at least paragraphs [0026] and [0027] of the present invention, and as shown in Figure 1-2, the upper and lower surfaces of the roof assembly are conformally secured to corresponding upper and lower platens. The conformal contact is required to support the upper and lower skin surfaces of the roof assembly, as discussed in the present specification below.

[D]ue to the elevated pressure levels created within closed chamber 16 during the injection process, there is a high likelihood of deformation, or possible rupture, of the upper surface 30 of exterior skin 14 and the lower surface 32 of fixture 12 of roof assembly 10 without conformal structural support provided by the press 50, since surfaces 30, 32 each defines a considerable surface area.

(see paragraph [0026]) In other words, for the present invention to operate as intended, i.e., without the upper and lower surfaces deforming or rupturing, the upper and lower surfaces must be conformally supported by the upper and lower platens. Stated another way, the present invention simply could not function using the nonconformal construction of Hutton.

Second, even if Hutton could possibly be construed as having conformal contact with the trough and the lower support fixture, which it doesn't, Hutton does not teach or suggest having such conformal contact between the trough and the lower support fixture and between the upper fixture and a pad while the space between the trough and pad is filled with a pressurized material. It is the Examiner's position that col. 9, lines 7-12, i.e., claim 6 of Hutton, discloses filling with a pressurized material. Claim 6 of Hutton recites the following:

The process of claim 3 wherein the ribbon is urged into engagement with the metal body with a substantially uniform force throughout the portion of the ribbon to be bonded to the metal body of at least fifteen pounds per square inch of area of the portion of the surface of the ribbon to be bonded to the metal body.

While claim 6 of Hutton refers to an application of force to bond the ribbon to the metal body, i.e., the trough, the Examiner's premise is misplaced. The application of force is not brought about by expansion of the ribbon to a resin foam that would only occur when the bulk of the ribbon is heated to an elevated temperature to activate the blowing agent. The force is merely the result of the upper and lower fixtures being brought together to compress the ribbon to at least 15 pounds per square inch, which ribbon being a strand of material. The strand of material is of a predetermined size, such as one half inch in diameter. (see col. 6, line 51 through col. 7, line 11)

In addition, once the ribbon in Hutton has been positioned and then compressed between the pad and the trough by the fixtures, induction current is applied to the lower fixture sufficient to heat the corresponding portion of the ribbon so that the ribbon bonds to the trough. However, the ribbon is not heated sufficiently to activate the bonding agent while the ribbon pad and trough are compressed between the fixtures. (see col. 7, lines 12-28) It is only after the pad and trough (roof bow) have been removed from the fixture and actually assembled into a vehicle body that the bonding agent is activated as follows:

After the resin ribbons have been bonded to the [trough to form a] roof bow, the roof bow is assembled under the roof panel in a vehicle body. Subsequently, the expandable resin is heated to an elevated temperature to activate the blowing agent to produce an expanded or foam resin between the roof panel and bow.

(see col. 8, lines 8-13) (emphasis added)

In summary, Hutton does not teach conformal contact between the lower fixture and the trough as in the claimed invention. Therefore, Hutton also does not teach or suggest conformally receiving the trough and pad between the upper and lower fixture while the trough and pad is filled with a pressurized material. Further, for reasons explained above, Hutton does not teach or suggest filling the trough and pad with a pressurized material while the trough and pad is received by the upper and lower fixtures. That is, the question as to whether the trough and pad are considered to be conformally received by the upper and lower fixtures is moot, since the

trough and pad are not filled with resin foam until the upper and lower fixtures have been removed.

Thus, since Hutton does not teach or suggest all of the limitations recited in independent claim 1, Applicant respectfully submits that Hutton does not anticipate Applicant's invention as recited in independent claim 1.

Therefore, for the reasons given above, independent claim 1 is believed to be distinguishable from Hutton and therefore are not anticipated nor rendered obvious by Hutton.

Dependent claims 2-4 and 7-11 are believed to be allowable as depending from what are believed to be allowable independent claim 1 for the reasons given above. In addition, claims 2-4 and 7-11 recite further limitations that distinguish over the applied art. In conclusion, it is respectfully submitted that claims 1-4 and 7-11 are not anticipated nor rendered obvious by Hutton and are therefore allowable.

Rejection under 35 U.S.C. 103

The Examiner rejected claims 5, 6, 12, 13 and 15-17 under 35 U.S.C. § 103(a) as being unpatentable over Hutton.

Specifically, the Examiner stated that

7. Claims 5, 6, 12, 13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hutton et al. The basic claimed press is disclosed by Hutton et al. as described previously. Heating a press platen by fluid means, as in claim 6, is well known and would have been an obvious alternative for one of ordinary skill in the art to achieve a desired bow or vessel temperature. The limitation of claim 5 is a statement of an intended use for the product and not directly related to the press structure itself. Inclusion of movable portions and indicators, as in claims 12, 13 and 15-17, are also well known and would have been obvious to one of ordinary skill in the art in order to accommodate relatively more sophisticated performs or bows.

Applicant respectfully traverses the rejection of claims 5, 6, 12, 13 and 15-17 under 35 U.S.C. § 103(a).

Hutton is directed to an induction tacking apparatus as discussed in greater detail above.

Applicant submits that dependent claims 5, 6, 12, 13 and 15-17 are distinguishable from Hutton for at least the following reasons. To begin, dependent claims 5, 6, 12, 13 and 15-17 are believed to be distinguishable from Hutton as depending from what is believed to be allowable independent claim 1 as discussed above.

Therefore, in view of the above, dependent claims 5, 6, 12, 13 and 15-17 are believed to be distinguishable from Hutton and therefore are not anticipated nor rendered obvious by Hutton. In addition, claims 5, 6, 12, 13 and 15-17 recite further limitations that distinguish over the applied art. In conclusion, it is respectfully submitted that claims 5, 6, 12, 13 and 15-17 are not anticipated nor rendered obvious by Hutton and are therefore allowable.

Rejection under 35 U.S.C. 112

The Examiner rejected claims 1-20 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter applicant regards as the invention.

Applicant respectfully traverses the rejection of claims 1-20 under 35 U.S.C. 112, second paragraph.

The Examiner stated that

4. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. While a press is being claimed, these claims are indefinite because many of the limitations are recited in terms of manipulative steps conducted rather than the structure of the press itself. Examples are the heating of a portion of the vessel by the lower platen to a predetermined temperature, as in claims 1, 9 and 10, the description of the pressurized material, as in claim 8, and the temperature of the heated lower platen in relation to a flash point of the injected material, as in claim 11.

In response thereto, Applicant has amended claims 1 and 9-11 in a manner that is believed to overcome the Examiner's rejection.

Therefore, in view of the above, Applicant submits that claims 1-20 are not indefinite and comply with the provisions of 35 U.S.C. 112, second paragraph, and therefore are allowable.

Allowable Subject Matter

The Examiner also indicated that claims 14 and 18 would be allowable if rewritten or amended to overcome the rejections(s) under 35 U.S.C. 112, second paragraph, set forth in this Office Action and including all of the limitations of the base claim and any intervening claims. In response thereto, claim 1, from which claims 14 and 18 depend, has been amended in a manner believed to overcome the rejection under 35 U.S.C. 112, second paragraph, and is therefore believed to be allowable. Applicant appreciates the Examiner's indication of allowable subject matter, but believes that all of the claims are allowable for the reasons given above.

Information Disclosure Statement

In the outstanding Office Action, the Examiner has requested copies of References "Q" and "R", i.e., Japanese publications JP 06205779 and JP 04162950, as the Examiner apparently did not receive copies of copies of those references filed by Applicant. In response, and in addition to the one sheet English translation of the Abstract Applicant had originally filed for each of these references, Applicant will now also provide as an attachment with this Response, a copy of each of the Japanese publications. Applicant requests that the Examiner confirm that the references listed in the Information Disclosure Statement have been considered by the Examiner and provide Applicant with a copy of the Information Disclosure Statement initialed by the Examiner indicating that the references were considered.

CONCLUSION

In view of the above, Applicant respectfully requests reconsideration of the Application and withdrawal of the outstanding objections and rejections. As a result of the amendments and remarks presented herein, Applicant respectfully submits that claims 1-20 are not anticipated by nor rendered obvious by Hutton and thus, are in condition for allowance. As the claims are not anticipated by nor rendered obvious in view of the applied art, Applicant requests allowance of claims 1-20 in a timely manner. If the Examiner believes that prosecution of this Application could be expedited by a telephone conference, the Examiner is encouraged to contact the Applicant.

The Commissioner is hereby authorized to charge any additional fees and credit any overpayments to Deposit Account No. 50-1059.

Respectfully submitted,
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Dated: April 6, 2007

Attachments:

JP 06205779
JP 04162950